

APPENDIX E

Enacted legislation on button batteries in novelties

Connecticut

- **Definition**

"Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment, including, but not limited to, products intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, footwear, other items of apparel or similar products. A product is not a "mercury-added novelty" solely on the basis that it includes a removable button cell battery containing mercury. *Connecticut General Statutes, sec. 22a-613(6)*

- **Ban on sale**

The sale of a mercury-added novelty is prohibited beginning July 1, 2003. *Connecticut General Statutes, sec. 22a-616(a)*

- **Labeling**

Beginning July 1, 2004, the sale of novelties and other products that contain button cell batteries as the only mercury component is prohibited unless the packaging and any product instructions are labeled. The label must be clearly visible and must be sufficient to inform the purchaser that mercury is present in the product and that the product should be disposed of or recycled in accordance with hazardous waste requirements. Button batteries sold separately (i.e., replacement batteries) are exempt from the labeling requirement. *Connecticut General Statutes, sec. 22a-619(a),(c) and (g)*.

- **Collection required**

Beginning July 1, 2003, the sale of mercury-products (including novelties that contain button cell batteries as the only mercury component) is prohibited unless the manufacturer has submitted a plan for a system that reasonably enables the collection of such products. If the mercury-added product is a component of another product, the collection system must provide for removal and collection of the mercury-added component or collection of both the component and product containing it. This collection system requirement applies to manufacturers who make button batteries. *Connecticut General Statutes, sec. 22a-620(a)*

The Commissioner of Environmental Protection can grant an exemption if collection is not feasible. The National Electrical Manufacturers Association, the American Watch Association and the Toy Industry Association have filed an exemption request for mercury-added button batteries. A final decision on the request is pending. *Connecticut General Statutes, sec. 22a-620(f)*

Indiana

- **Definition**

"Mercury-added novelty" for purposes of IC 13-20-17.5, means a mercury-added product intended mainly for personal or household enjoyment or adornment, including:

- (1) items intended for use as practical jokes;
- (2) figurines;
- (3) adornments;
- (4) toys;
- (5) games;
- (6) cards;
- (7) ornaments;
- (8) yard statues and figurines;
- (9) candles;
- (10) jewelry;
- (11) holiday decorations; and
- (12) footwear and other items of apparel.

Indiana Code, Title 13, article 11, chapter 2, section 128.3 [IC 13-11-2-128.3]

- **Ban on sale**

Sec. 1. This chapter does not apply to antiques.

Sec. 2. Prohibition of sale or distribution of mercury-added products

- (a) This section does not apply to a mercury-added novelty if:
 - (1) the novelty uses a mercury-added button cell battery to function; and
 - (2) the only mercury contained in the novelty is found in the mercury-added button cell battery.

- (b) After July 1, 2003, a mercury-added novelty may not be:

- (1) offered for final sale; or
- (2) distributed for promotional purposes;

in Indiana if the offerer or distributor knows or has reason to know that the novelty contains mercury. *IC 13-20-17.5*

Minnesota

- **Definition**

Minnesota law does not define the term "mercury-added novelty."

- **Ban on sale.**

A person may not sell a toy or game that contains mercury, or a tax-exempt item of clothing or wearing apparel that contains an electric switch that contains mercury.

Minnesota Statutes, § 116.92, subd. 8

- **Labeling.**

The sale of mercury-added products is prohibited unless labeled in a manner to clearly inform the purchaser or consumer that mercury is present and that the item may not be placed in the garbage until the mercury is removed and reused, recycled or otherwise managed to keep it out of solid waste or waste water. This requirement does not apply to a novelty or other product in which a battery is the only component that contains mercury. *Minnesota Statutes, § 116.92, subd. 8*

New Hampshire

- **Definition**

"Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, and items of apparel, including footwear. *New Hampshire Revised Statutes, § 149-M:51(II)*

- **Ban on sale**

Effective January 1, 2001, no toy, game, card, ornament, or mercury-added novelty may be offered for sale if the seller knows or has reason to know that the product contains mercury. Manufacturers that produce and sell mercury-added novelties shall notify retailers about the provisions of this section and how to dispose of the remaining inventory properly. *New Hampshire Revised Statutes, §149-M:53(I)*

The New Hampshire Department of Environmental Services, by administrative interpretation, does not apply this prohibition to a mercury-added novelty that has a button cell battery as its only mercury-containing component.

New York

- **Definition**

"Mercury-added novelty product" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury added novelties include, but are not limited to, items intended for use as practical joke3s, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel (including footwear, or similar products. A product is not a mercury-added novelty solely on the basis that is a game with a light screen display containing mercury, or includes a removable battery containing mercury. *N.Y. Env'tl. Conserv. §27-2101(8)*

New York, like Maine and Vermont, excludes button batteries from the definition of mercury-added product. *N.Y. Env'tl. Conserv. §27-2101(7)*

- **Ban on sale**

Effective January 1, 2005, no person may sell, offer to sell or distribute a mercury-added novelty product. *N.Y. Env'tl. Conserv. §27-2107(1)*

Oregon

Ban on sale. Oregon Laws 2001, Chapter 924, section 5 [eff. January 1, 2002] provides:

"(1) A person may not sell or offer for sale a novelty item that contains encapsulated liquid mercury.

(2) Upon notification to the Department of Environmental Quality by any person that a novelty item for sale in the state contains encapsulated liquid mercury, the department shall notify persons identified as selling the novelty item of the prohibition on the sale of such items.

(3) The department may impose a penalty as provided in ORS 459.995 if a person continues to sell a novelty item that contains encapsulated liquid mercury after notification of the prohibition on the sale of such items."

Rhode Island

- **Definitions.**

"Mercury-added button cell battery" means a button cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery. *Rhode Island General Laws, 23-24.9-3(8)*

"Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel (including footwear), or similar products. *Rhode Island General Laws, 23-24.9-3(9)*

- **Ban on sale**

The sale of mercury-added novelties is prohibited effective January 1, 2003. Manufacturers of mercury-added novelties must notify retailers about this ban and how to dispose of any remaining inventory. The ban does not apply to a novelty incorporating one or more mercury-added button cell batteries as its only mercury-added component or components. *Rhode Island General Laws, 23-24.9-6(a) and (d)*

- **Labeling.**

Novelties exempt from the sales ban (i.e., those that have button cell batteries as their only mercury-added component) are also exempt from the labeling requirements of Rhode Island's Mercury Reduction and Education Act. *Rhode Island General Laws, 23-24.9-8(a)*

- **Ban on disposal.**

Effective July 1, 2005, no person may dispose of mercury-added novelty or other mercury-added product in a manner other than by recycling or disposal as hazardous waste. The ban does not apply to mercury-added button cell batteries. *Rhode Island General Laws, 23-24.9-9(a) and (c)*

- **Collection.**

Effective July 1, 2005, a mercury added product may not be sold in Rhode Island unless the manufacturer has submitted a plan for collecting the product when the consume is finished with it and the plan has been approved by the Department of Environmental Protection. The collection system requirement does not apply to novelties that are exempt from the sales ban (i.e. those that have button cell batteries as their only mercury-added component). *Rhode Island General Laws, 23-24.9-10(a)and (b)*

Washington

- **Definition.**

"Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel, and other similar products. Mercury-added novelty does not include games, toys, or products that require a button-cell or lithium battery, liquid crystal display screens, or a lamp that contains mercury.

State of Washington, Laws of 2003, Chapter 260, section 2

- **Ban on sale.**

"Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a mercury-added novelty. A manufacturer of mercury-added novelties must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining mercury-added novelty inventory.

State of Washington, Laws of 2003, Chapter 260, section 6